

Exhibit 5

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, an unincorporated association; NATIONAL BASKETBALL ASSOCIATION, a joint venture; NATIONAL FOOTBALL LEAGUE, an unincorporated association; NATIONAL HOCKEY LEAGUE, an unincorporated association; and OFFICE OF THE COMMISSIONER OF BASEBALL, an unincorporated association, doing business as Major League Baseball, Plaintiffs,

vs.

CHRISTOPHER J. CHRISTIE, Governor of the State of New Jersey; DAVID L. REBUCK, Director of the New Jersey Division of Gaming Enforcement and Assistant Attorney General of the State of New Jersey; and FRANK ZANZUCCKI, Executive Director of the New Jersey Racing Commission, Defendants.

Defendants.

VIDEOTAPED DEPOSITION OF: ALLAN H. SELIG

TAKEN AT: MAJOR LEAGUE BASEBALL HEADQUARTERS

LOCATED AT: 777 East Wisconsin Avenue, Suite 3060
Milwaukee, Wisconsin
November 9, 2012
11:30 a.m. to 2:13 p.m.

REPORTED BY: VICKY L. ST. GEORGE, RMR.

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TRANSCRIPT OF PROCEEDINGS

THE VIDEO OPERATOR: Good morning. My

name is Cesar Rios of Veritext. The date today is November 9th, 2012. The time is approximately 11:43 a.m. The deposition is being held in the office of the Commissioner of Major League Baseball located at 777 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

The caption of this case is NCAA, et al., versus Christopher Christie, et al., in the United States District Court, District of New Jersey. And the name of the witness is Allan Selig.

At this time the attorneys will identify themselves and the parties they represent after which the court reporter, Vicky St. George of Veritext, will swear the witness, and we can proceed.

MR. MISHKIN: For the plaintiffs Jeffrey Mishkin, Skadden, Arps, Slate, Meagher and Flom.

MS. LENT: Karen Lent, Skadden Arps for the plaintiffs.

MR. OSTERTAG: Thomas Ostertag, Major League Baseball, for the plaintiffs.

MR. WEGNER: Bill Wegner of Gibson, Dunn and Crutcher for the defendants.

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A P P E A R A N C E S

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Appeared on behalf of the Plaintiffs.

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ALSO PRESENT: THOMAS OSTERTAG, General Counsel for Major League Baseball; CESAR RIOS, videographer, Veritext.

I N D E X

EXAMINATION BY: MR. WEGNER PAGE 4

R E Q U E S T S

(No requests made.)

(Original transcript was delivered to Attorney Wegner.)

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MR. HOFFMAN: Matt Hoffman from Gibson Dunn and Crutcher for the defendants.

MR. LOOSE: Timothy Loose from Gibson Dunn and Crutcher also for the defendants.

ALLAN H. SELIG called as a witness herein, after having been first duly sworn on oath, was examined and testified as follows:

EXAMINATION

BY MR. WEGNER:

Q. Good morning, Commissioner.

A. Good morning.

Q. Would you please state your full name for the record?

A. Allan H. Selig.

Q. Have you been deposed before?

A. Many times.

Q. Also, is it okay with you if I refer to you as Commissioner throughout the day?

A. It certainly is.

Q. Okay. On these depositions that you've had before, have any of them been in connection with the MLB's anti-gambling policies?

A. No.

Q. Have you testified in court?

A. In other matters, yes.

Q. So have any of those testimonies involved enforcing

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1 MLB's anti-gambling policies?
 2 A. No.
 3 Q. How about arbitration proceedings, same question?
 4 A. No.
 5 Q. Commissioner, did you speak with anyone about today's
 6 deposition?
 7 MR. MISHKIN: Other than counsel.
 8 BY MR. WEGNER:
 9 Q. Other than counsel.
 10 A. No.
 11 Q. Have you spoken with any of the commissioners of the
 12 other leagues?
 13 A. On other subjects but never on this.
 14 Q. Commissioner, because we need to have a record in
 15 this case, would you mind giving us a brief
 16 description of your history with Major League
 17 Baseball?
 18 A. It's a rather lengthy one. I really started in 1964,
 19 '65. The Braves left for Atlanta, and I became the
 20 head of a group to bring baseball back here. It was
 21 the first time I was in court as a matter of fact.
 22 But anyway, in 1970 we bought the Seattle
 23 Pilots and brought them to Milwaukee. I was the
 24 president of the Brewers and its major stockholder
 25 from 1970 to actually into 2002. But I became

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1 anti-gambling policies?
 2 A. Well --
 3 Q. Maybe I can be more specific, Commissioner.
 4 A. Well, I don't know that I -- you know, we certainly
 5 have always had an anti-gambling policy. We've had
 6 one since 1921. I mean I could take you through
 7 chapter and verse of things that have been done by my
 8 predecessors as well as myself. There is no question
 9 about it.
 10 After all, this sport almost died in 1919
 11 as a result of the Black Sox scandal, and Kenesaw
 12 Mountain Landis, this office was created because of
 13 gambling and the Black Sox. And if you really study
 14 the history of the sport, you understand that as
 15 tough as Landis was, and he was tough, remarkably
 16 tough, it was really Babe Ruth that saved baseball.
 17 It was that bad. Baseball was dying as a result.
 18 And so as you study the history, whether
 19 it was Bill Cox in Philadelphia who was suspended,
 20 Leo Derosier who got suspended in 1947 I think it was
 21 because associating with gamblers, you go up the line
 22 to the Pete Rose situation, you understand that I
 23 said my job was to protect the integrity of the
 24 sport. And that's every manifestation of that
 25 because I've often said to people, especially during

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1 chairman of the executive council, and Fay Vincent
 2 resigned in September of 1992, became the
 3 Commissioner in -- on July 8th or 9th of 1998. So
 4 I've been in this position for actually the past 20
 5 plus years.
 6 Q. Commissioner, what are your responsibilities as the
 7 Commissioner of Major League Baseball?
 8 A. Well, they're varied and hard I think to articulate
 9 the specific manner. But overall I would say
 10 obviously is to run the sport, particularly the
 11 central offices of the sport and central revenues.
 12 But I would guard this job, the most important part
 13 of this job, clearly, is to protect the integrity of
 14 the sport.
 15 And I'm a great student of history. I
 16 wanted to be a history professor, so I will review,
 17 as Mr. Ostertag and the clubs know, talk about this
 18 at meetings all the time, the retrospect of history,
 19 and the longer you're in this business and certainly
 20 the longer you're in a position like this and you
 21 understand that the integrity of the sport is a thing
 22 that is something that is sacred to the sport and one
 23 that you must on a daily, hourly basis protect.
 24 Q. Commissioner, could you talk about your specific
 25 duties with Major League Baseball concerning its

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1 the Rose situation, one of my predecessors, Bart
 2 Giamatti who happened to be one of my best friends in
 3 the world. If there is a scintilla of doubt from one
 4 of these millions of people who goes to games in
 5 Milwaukee or Pittsburgh or St. Louis or New York or
 6 LA, 75 million plus I'm happy to say this year, we
 7 have no sport left. So integrity becomes the
 8 overriding concern of every Commissioner.
 9 I know you're going to talk to the other
 10 three who are friends of mine but understand the same
 11 thing. You can't be strict enough, and you can't be
 12 -- serious incentive to understand that if heaven
 13 forbid there is any situation that there is the
 14 slightest equivocation on a game, you have no sport
 15 left. And we don't have any Babe Ruths left here to
 16 save it.
 17 And so when it comes to gambling, I say
 18 this not facetiously, you may think I'm going to but
 19 I'm not, we can't afford to create any Arnold
 20 Rothsteins. We can't afford to do that because there
 21 would be no sport.
 22 Q. Commissioner, you mentioned the 1919 Black Sox
 23 scandal. Has there been a game-fixing scandal in
 24 Major League Baseball since then?
 25 A. No, not to my knowledge because we've had such a

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1 tough policy. Leo Derosier, sitting in I think it
2 was Havana, Cuba if my memory -- meant to look it up
3 last night. But Leo Derosier always fascinated me,
4 for all the wrong reasons I may add, sitting with
5 gamblers, sitting with them.

6 Now, Happy Chandler said, you know, he was
7 worried he was consorting with them. And maybe he
8 was. I don't know. We would have to bring Happy
9 back to make that judgment. But that's how strict
10 our policy has been. You don't equiv -- I said
11 before, very carefully, you don't equivocate. So if
12 one as a history buff, someone teaching courses in
13 history now, if you don't learn from what's
14 happening, well, then that's your fault.

15 Q. Commissioner, in 1919 when the Black Sox scandal
16 occurred, sports wagering was not legal in the United
17 States, correct?

18 A. I guess that's right, yeah.

19 Q. In fact, sports --

20 A. But frankly, that's -- I mean I would have to say to
21 you that's a so what. Let me try to, if I may, just
22 to get back because I know we're going to talk
23 about -- maybe I can shorten everybody's day.

24 I often refer in many speeches on a daily,
25 weekly basis, everybody has heard, every writer who

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1 why while I'm the Commissioner we would never put a
2 team in Las Vegas. Don't even want to be close to
3 that.

4 Q. Commissioner, so I'm clear, I'm not talking about
5 legal gambling in --

6 A. Talking about illegal.

7 Q. I'm talking about illegal throughout the United
8 States.

9 A. That's fine. But it's -- gambling is so sensitive,
10 we do every -- we have a Department of Investigation.
11 We watch everybody very carefully. We created a
12 Department of Investigation from my friend Senator
13 George Mitchell back during the whole steroid
14 situation. But we were very cautious. And we had
15 people long before that in the last 70, 80, 100 years
16 that are watching. But yeah, a lot of things going
17 on illegally. But yes, I do understand that.

18 Q. Has Major League Baseball done anything to try to
19 deter or eliminate illegal gambling in the United
20 States?

21 MR. MISHKIN: Object to the form of the
22 question. All illegal gambling?

23 MR. WEGNER: Yes.

24 MR. MISHKIN: On sports or on --

25 MR. WEGNER: Let me rephrase the question.

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1 covers me, I start out by saying, and maybe it's the
2 professor in me that I wanted to be, but that
3 baseball is a social institution. I believe that. I
4 also believe it's a quasi-public institution. But
5 it's a social institution with really important
6 social responsibility.

7 Now, we're like everybody else in life,
8 you know, we have our ups and downs. But we try to
9 always do because we are a social institution. And I
10 don't know how much more candidly I can say it.
11 Gambling doesn't fit into a social institution,
12 especially one that's a quasi-public institution in
13 which people count on the integrity of the sport.

14 Q. Commissioner, are you aware that there is a
15 multi-million dollar -- I'm sorry, multi-billion
16 dollar illegal gaming industry in the United States?

17 MR. MISHKIN: Object to the form of the
18 question. I think it lacks a foundation, but you
19 can answer the question.

20 THE WITNESS: I know that gambling in Las
21 Vegas and other places is huge, yes. I'm aware of
22 it.

23 BY MR. WEGNER:

24 Q. But I mean I'm not --

25 A. By the way, if -- as long as you bring it up, that's

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1 BY MR. WEGNER:

2 Q. Has Major League Baseball done anything that you're
3 aware of to deter illegal sports wagering in the
4 United States?

5 A. Only with our own people.

6 Q. And then --

7 A. Only with our own people.

8 Q. And what is that, sir?

9 A. Well, I often tell a story that my first time I
10 walked in a Major League Clubhouse was in May of
11 1958. Just a kid in those days. And we kept people
12 out of clubhouses, you had to have -- we still do,
13 very careful who we keep out. And the first thing I
14 saw was a big sign up on the board signed by Ford C.
15 Frick, then Commissioner of Baseball. Talked about
16 illegal gambling. And I remember carefully reading
17 it and talking to people.

18 So everybody that comes into baseball
19 understands the threat of gambling right from day
20 one, there is no excuse. Every clubhouse has this,
21 everybody talks about it. And so all I can say, I
22 mean I can't -- I don't know what society has done.
23 After all, I have enough trouble running baseball. I
24 haven't been elected to do anything else yet. But we
25 do everything we can to make sure people understand

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1 the evil of gambling.

2 Q. Commissioner, you're aware that sports wagering is
3 legal in Canada?

4 MR. MISHKIN: Object to the form of the
5 question.

6 THE WITNESS: That I -- I'm not familiar
7 with the Canadian laws, so I can't really comment on
8 that.

9 BY MR. WEGNER:

10 Q. So you're not aware that sports wagering is legal in
11 Canada?

12 A. I'm not sure that I am. I may be, but I haven't paid
13 any attention to it. But I am aware of what the Blue
14 Jays do and what the Expos did when they were there.

15 Q. And what is that, sir?

16 A. Same thing that we do everywhere. You teach people
17 from the day they set foot and they start their
18 career that gambling is, above all, the most serious
19 thing that can confront baseball.

20 Q. Whether illegal or legal?

21 A. Either way.

22 Q. Has Major League Baseball done anything when there
23 were teams in Canada, did Major League Baseball do
24 anything to eliminate legalized gambling in Canada?

25 A. I don't think that's in our domain or purview.

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1 Q. Other than I would like to talk about your foundation
2 and the evidence that you have to support the
3 declaration. But certainly I'm not going to quibble
4 with your competency, Commissioner.

5 MR. MISHKIN: Object to the form of that
6 statement.

7 MR. WEGNER: You're not arguing that he's
8 not competent.

9 MR. MISHKIN: No, I'm not.

10 BY MR. WEGNER:

11 Q. Commissioner, if you -- let me ask you this, sir.
12 Did anyone present you with any documents to support
13 this declaration --

14 A. Well, they didn't have to. I've lived -- this has
15 been my career the last 50 years. As I told you, I
16 think I'm probably as well as anybody now left on the
17 face of the earth, maybe with the exception of our
18 historian, I've gone back, I've studied all these
19 issues, not just now but I have no -- there isn't
20 anything in here that I haven't lived. So I'm not
21 sure I need too many people to explain things to me.

22 Q. Let's go through it then because I'd like to walk
23 through your declaration, sir, and talk about some of
24 the statements that you make in your declaration. If
25 I could direct your attention to paragraph 5 on page

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1 Q. So that's a no?

2 A. No.

3 Q. Commissioner, I'd like to show you previously marked
4 MLB exhibits here, are sequential in -- sequential in
5 number. And of course we took a deposition,
6 deposition of your general counsel recently. So this
7 is a previously marked exhibit. Number 13.

8 Commissioner, do you need a minute to look
9 at your declaration?

10 A. No, I've looked through it.

11 Q. When was the last time you saw that document?

12 A. It's on my desk. I can take you back there and show
13 you.

14 Q. Did you draft it yourself?

15 A. No, I wouldn't say I drafted it, but there isn't
16 anything here I disagree with.

17 Q. All right.

18 A. On the contrary. Quite confident, very well done.

19 Q. Other than --

20 A. The only person -- the only thing that you may want
21 to quibble with, I'm over 18, that we can't;
22 competent to make this declaration. There may be
23 some people that want to quarrel about that.

24 Q. Well, I'm not going to quarrel with that.

25 A. Thank you.

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1 2.

2 A. 5.

3 Q. There, Commissioner, you say that your most important
4 responsibility is working to maintain the integrity
5 of MLB and to preserve public confidence in our
6 sport.

7 A. I believe I've said that earlier today.

8 Q. Yes. What threats are there to the integrity of
9 Major League Baseball?

10 A. What --

11 Q. Threats are there to the integrity of Major League
12 Baseball?

13 A. Gambling.

14 Q. Any other ones?

15 A. Well, there could be other things. I mean when we
16 had the steroid business, I was greatly concerned
17 about that. But we did what we had to do with the
18 help of Senator Mitchell and others. And I was very
19 proud of the fact that sport got cleaned up quickly.

20 Different case, however, because gambling
21 on a sport, on any sport but on this sport is what
22 you want to talk to me about, is I think the
23 deadliest of all things that can happen. It's evil,
24 it creates doubt and destroys your sport. So it's
25 different from all the other things that you have.

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So are there other things that could create some -- hasn't, and I'm happy to say that, but gambling always does. There can be no doubt about the effect of gambling, none.

Q. Commissioner, then, so I've got two then. Gambling in terms of threats to Major League Baseball, gambling and performance enhancing drugs, may I call it that?

A. No -- yeah. Let me just explain the steroid or performance enhancing drugs. The only thing one can say is well, the playing field wasn't level because some people used them and some people didn't. Now, there are a lot of people that disagree with that, but I'm very sensitive on this subject. Could it create the same kind of threat of gambling, not even close. Not even close.

Q. Why is that, sir?

A. If a -- if you're going to a game today and somehow there has been comments somewhere in the paper or some story is breaking that players have been gambling on the outcome of that game, on the outcome of the game, that's a stain, as Bart Giamatti said in the Pete Rose situation, that can't be removed.

Steroids -- all sports have performance enhancing things and other things, but that's why you

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put in place after the 1919 scandal?

A. Absolutely.

Q. So would you say that the policies of MLB from 1919 to the present have been successful in preventing game fixing in MLB?

A. So far. So far. But remember I said you have to watch this on a daily basis, on an hourly basis. The fact that we protected it now, but if something in the near future happened, all that would be in jeopardy.

Q. Commissioner, could you please now look at paragraph 6.

A. 6, um-hum.

Q. Of Exhibit 13 which is your declaration.

A. Yes.

Q. I'd like to ask you if you would focus on the first sentence of paragraph 6 in which it states that the spread of sports betting, including the introduction of sports betting in New Jersey, would threaten to damage irreparably the integrity of and public confidence in Major League Baseball.

A. Um-hum.

Q. What is your basis for that statement, sir?

A. My thoughts on gambling, my thoughts on how important it is as a social institution to make sure that we

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clean them up, you recognize it, you understand that that's your job. But we don't know who did it, we don't know how, there is no attempt to throw a game or no attempt to do something to a game. So I'm kind in the answer to say that the only thing that could create some doubt, fortunately we haven't had any, there is nothing on a par with gambling. And I believe that. I believe that from the first day I walked in this business.

And I guess I would have to say to you candidly I don't understand how this is even a question. I don't even understand how anybody who understands sports what it means to people; and then people who gamble on a game who are participants in that game, whether they're participating in that game or gambling on another game and talking to other people, it's the end of your sport. How would you defend that? And who would believe the next time it isn't happening again and again and again? That's what happened in 1919.

Q. Commissioner, would you say that from 1919 to the present that MLB has been successful in building the integrity of the sport?

A. No question.

Q. And is that in part because of the policies that MLB

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maintain integrity at all parts, and the idea that we make -- we create mechanisms, we create mechanisms that increase gambling, increase producing maybe another Arnold Rothstein are to me not only inexcusable but I'm -- I say this not disrespectfully because I really don't mean it that way, I'm offended by that. I know, and I'm probably going to go on more than I want to here, I know states need money. I really mean that. I understand all the problems. Federal government needs money, going over a cliff, cities need money. Chris Christie needs money.

But gambling is so -- the threat of gambling and to create more threat is to me -- I'm stunned. When you told me I was going to do this and all this was going on, my first reaction is -- was and is, and again, I don't mean to be disrespectful, I know that people need sources of revenue, but you can't -- this is corruption in my opinion. You have one incident as a result of somebody going gambling on a game, and it spreads its tentacles to, after all, Philadelphia is close by, New York is close by, on and on and on. Who knows, could be anyone.

Why would you do that. Why would you do that to one of the most really important social institutions in America. I know the other

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commissioners feel their sports are, and they're right, they are. But people live and die with baseball games. It's their life. The more you're in this sport, the more you understand that, how important it is to so many different people. Why would you do this. I'm just -- guess I have to say to you I'm appalled. I'm really appalled.

And if anybody doesn't understand it, then it's -- it's beyond belief. After all, you don't have to be a student of American history. But I'll go back to 1919, if somebody -- we should be trying to reduce the risk of this, not increase the risk of it.

Q. Commissioner, has MLB conducted any studies to support the notion that the implementation of New Jersey's new gaming law would increase the risk of game fixing in the MLB?

A. I don't know -- no, the answer is we haven't -- we don't have to. Obvious. I mean for all the things I've already told you, I wouldn't put a team in Las Vegas just because I don't want our people around that kind of atmosphere. There is a lot of things that we do -- we do a lot of things to avoid this. To have a state create gambling on our games in which the chance, chance, who knows what, of somebody

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for you and me to argue in court, not to ask the witness about. You can ask the witness factual questions and he'll, I know he will give you an answer.

MR. WEGNER: So do you have an objection?

MR. MISHKIN: Yes, I do. I'm not directing him not to answer the question.

MR. WEGNER: I think I should rephrase the question because I think it got lost in our discussion.

BY MR. WEGNER:

Q. All of the examples of scandals, if you will, involving gambling that you just mentioned after 1919 did not involve game fixing, did it?

A. No. But -- well, we have to take them one by one. In Leo Derosier's case, he was consorting with gamblers according to Happy Chandler and properly so, and we're not going to take any chances on that. Doing anything with gambling, consorting with whatever, whether it's gamblers or this type of mechanism, can only do harm and evil to this sport. It can't do any good. The potential for evil is pretty high.

Q. Commissioner, is it MLB's position that sports wagering in the United States is a threat to the

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betting money, and then it spreads to a player or two, is so -- is so appalling and so -- again, we go back to history. We've protected this.

And I guess I would wonder if that particular mechanism, the one you're talking about, New Jersey, ever led to this. And I believe it certainly would increase the chance. I wonder then how the Governor and other people, I wonder how they would feel then.

Q. Well, Commission --

A. You want to get into destroying social and American institutions, that's fine. If this is that important, fine. But it isn't important. And we'll fight it with every fiber of energy we have.

Q. I appreciate that, Commissioner. I'm just trying to get at the bottom of what evidence you have to support the conclusion that -- I'm going to frame a question about that.

A. I've already given you Bill Cox, Leo Derosier, Pete Rose, 1919. We can go on and on and on. I don't know how many more you want.

MR. MISHKIN: Mr. Wegner, frame a question. I have an objection to -- we have a dispute perhaps, I'm sure we do, as to what constitutes evidence and what does not. But that's

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integrity of the games in terms of game fixing?

A. Well, you're talking about gambling in Las Vegas, is that what you're talking about?

Q. I mean gambling, whether it's legal or illegal.

A. Look, we can only control what we control. And do I think that gambling is helpful to anything, no. But I think taking and having more options to gamble, creating more options to gamble isn't helpful. And in fact, yes, I think that it increases the chance of some type of tragic, unfortunate incident.

Q. Increases the chance. But again, since 1919, and we've already acknowledged that there is a huge illegal gambling market in the United States, there hasn't been a game-fixing scandal in the MLB since 1919.

MR. MISHKIN: The question has been asked and answered. You can answer it again.

THE WITNESS: Because we have been very vigilant back starting with Landis and going up through Happy Chandler and Ford Frick and on to the present by these incidents I've given you, and Bart Giamatti with Pete Rose and so on and so forth. But it was another -- the Pete Rose situation was tragic, tragic thing that, as Bart said, that fateful day that he suspended him was a stain on

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1 this sport and on that. So yes, we're very, very
2 protective.

3 BY MR. WEGNER:

4 Q. The Pete Rose scandal didn't involve game fixing, did
5 it?

6 MR. MISHKIN: Again, asked and answered.
7 You can answer it again.

8 THE WITNESS: I -- Pete Rose situation was
9 a tragic, sorry situation where he gambled. A
10 manager of a Major League ball club gambling on
11 games. I'll let you draw your own conclusions. How
12 good do you think that was for the sport?

13 BY MR. WEGNER:

14 Q. Commissioner, I have in my notes that your answer to
15 the question about the increase in the likelihood of
16 game fixing as a result of legalizing gambling in New
17 Jersey is that it represents a threat or a risk or a
18 chance; is that correct?

19 MR. MISHKIN: Object to the form of the
20 question. Mr. Wegner, really, I think your attempt
21 to characterize the testimony which is already in
22 the record and not characterized it precisely in the
23 words that the Commissioner used is objectionable.
24 So I object.

25 If you can answer the question, he can

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1 your testimony that to your knowledge the MLB has not
2 performed, conducted, any empirical studies to
3 confirm that the implementation of a New Jersey
4 gaming statute would increase the threat of game
5 fixing to the MLB?

6 A. With all due respect, after 50 years in this sport,
7 sir, I don't have to do an empirical study. I think
8 the answer is so obvious that even your Governor
9 probably understands that.

10 Q. So that's a no, sir?

11 A. No.

12 Q. All right, Commissioner, let's go, again, with the
13 same exhibit that you have in front of you, the next
14 sentence in paragraph 6 on page 2.

15 A. Um-hum.

16 Q. Please look at the next sentence where it says: The
17 more pervasive the sports gambling culture and the
18 more that culture is actively promoted by
19 governments, the more likely it is that games will be
20 perceived by the public with increased cynicism.

21 Sir, what support do you have for that
22 statement?

23 A. I think that's absolutely -- the support is my
24 practical experience all these years, talking to
25 fans, talking to people, you bet. What positive

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1 answer it. But I object to the way that question
2 was asked.

3 THE WITNESS: I think I have answered it
4 already. I said to create another gambling
5 mechanism is a threat and a serious one in my
6 opinion.

7 BY MR. WEGNER:

8 Q. Other than the threat, do you have any other evidence
9 that the implementation of the New Jersey gaming
10 statute would increase game fixing in the MLB?

11 MR. MISHKIN: Objection. Again, his
12 answer clearly has gone beyond game fixing. You
13 keep -- you're fixated on game fixing even though
14 his answer has gone way beyond that. So I object to
15 the form of your question.

16 MR. WEGNER: Okay.

17 THE WITNESS: I think I've answered this
18 question about seven different ways. But the only
19 thing I will say to you is to create another
20 mechanism where gambling could become pervasive in
21 Major League Baseball is something that we can't and
22 shouldn't tolerate and has potential to do big harm,
23 you bet.

24 BY MR. WEGNER:

25 Q. Okay. Just so we can move on, Commissioner, is it

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1 relationship could gambling and people participating
2 in gambling, what do you -- what positive could that
3 be for the sport and its fans. Of course it promotes
4 cynicism. Of course it does.

5 Q. Commissioner, would you agree with me though that the
6 spectatorship in Major League Baseball has increased
7 over the last 20 years?

8 A. Oh, dramatically. Very proud of it. You bet.

9 Q. And that is in a market where illegal gambling is
10 pervasive?

11 MR. MISHKIN: Object to the form of the
12 question.

13 THE WITNESS: That is what?

14 BY MR. WEGNER:

15 Q. In a market, the United States, where illegal gaming
16 is a reality.

17 A. That's irrelevant. That's irrelevant because illegal
18 gambling, undercover gambling, there isn't anything
19 we can do about it. We don't know about it. Only
20 thing we know is to have our Department of
21 Investigation from spring training on watch people,
22 watch carefully. Restaurants are sometimes out of
23 bounds. They watch all of the spots in every Major
24 League city. We do a lot of work. We have for many,
25 many years.

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1 And their -- but to then now create
 2 another entity, legal, as it may be, to promote
 3 gambling on our sport? I want to repeat what I said
 4 to you earlier, and I only have 50 years of
 5 experience in this sport, would be -- it does
 6 increase cynicism. And it's -- well, I'm appalled
 7 you guys are even here. I have to tell you that.
 8 That's how -- that's how having been raised by people
 9 in this sport about gambling is for a state to come
 10 in and do this is -- I'm sorry. I find this just
 11 absolutely startling.

12 Q. Commissioner, you stated that a moment ago, and
 13 Counsel will correct me if I get this wrong, that you
 14 don't see how there could be any possible benefit to
 15 baseball from gambling, correct?

16 A. Yeah, that's true.

17 Q. Would you agree with me that there is a possibility
 18 there is an increased interest in baseball as a
 19 result of gambling?

20 A. I don't believe that, not in our sport, no, no. I
 21 would hope not. No. No, I don't feel that way.
 22 Number one, you know, we don't have lines, and we
 23 don't do other things. We -- we're very, very
 24 cautious. No, I don't believe -- if gambling
 25 disappeared today, we'll draw more than 75 million

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1 help us draw, doesn't help us -- but anything, I
 2 meant what I said before, that affects an
 3 institution's integrity or even the thought of that
 4 integrity being challenged is deadly.

5 I would say to you, and I would say to the
 6 people there, if you want to believe it, you ought to
 7 go back and read -- I had a historian, Jerome
 8 Holtzman, who passed away, famed baseball writer from
 9 -- Hall of Fame writer who was my historian for
 10 years. And I had him go back and restudy the
 11 Shoeless Joe Jackson, Buck Weaver, all -- I spent
 12 hours. He was extraordinary. And the more you read
 13 it, the more painful it is, even for me.

14 And the God forbid that you would always
 15 have as a team owner is that a player -- you got a
 16 call from the Commissioner's Office or a player
 17 walked into your office, said look, you know, I met
 18 this guy, Rothstein, keep bringing up his name, and,
 19 why, your world just collapsed. Your world just
 20 collapsed. So why would a sport that's such an
 21 important part of society, why would you even allow
 22 the threat of that.

23 You can sit here all day and say well,
 24 you're not 100 percent sure. Of course not. But
 25 you've increased the risk. Who wants to be part of

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1 people next year, and we'll hit my goal of 80 million
 2 if all gambling disappears tomorrow morning at 10:00.

3 Q. And what basis do you have for making that statement?

4 A. Because I don't think -- because I know our fans, I
 5 know the sport, I know how families come to games.
 6 And there is, in my judgment, gambling plays no role
 7 at all. Now, maybe the next guy with 50 years of
 8 experience will have a different conclusion. I don't
 9 think so.

10 Q. Commissioner, has Major League Baseball conducted any
 11 focus groups or surveys to determine what the
 12 public's perception of baseball is with or without
 13 gambling in the United States?

14 A. Look, I know how people feel about the gambling
 15 situation. People know that gambling is deadly. I
 16 don't have to conduct focus groups. I mean I know
 17 how the Pete Rose affected things and so on and so.
 18 Believe me, that's -- I've walked ball parks since
 19 the time I was a kid. I think I know exactly how
 20 people are.

21 There isn't any fan anywhere who would say
 22 boy, I wish we could gamble on this game. Maybe we
 23 can get Ryan Braun. He's a Milwaukee left fielder.
 24 My God, maybe -- are you kidding? Where would
 25 gambling possibly help us? Nowhere. Zero. Doesn't

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1 increasing the risk.

2 Q. Commissioner, just so I can move on, we're clear, so
 3 the -- Major League Baseball has conducted no
 4 consumer surveys or focus groups to determine whether
 5 the implementation of New Jersey's gaming statute
 6 would increase a negative perception by the public of
 7 professional baseball?

8 MR. MISHKIN: It's been asked and
 9 answered. And for whatever it's worth, Mr. Wegner,
 10 we've been asked to produce any such studies. We
 11 have not produced them because they don't exist.
 12 You can continue to ask the witness the same
 13 question if you'd like, but I think we both know
 14 that those studies, if they had been done, would
 15 have been produced. We don't have them.

16 But again, with the objection that the
 17 question has been asked and answered, and
 18 Commissioner, if you still have -- surprisingly have
 19 the question in mind, you can answer it again.

20 BY MR. WEGNER:

21 Q. Would you like to have it read back, Commissioner?

22 A. No, I don't think I have to. I mean I just happened
 23 to think here, and my friend Commissioner Goodell,
 24 this is going to be in his domain, but I remember in
 25 1962 here when Horning and Karras, Alex Karras who

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1 just died, and Paul Horning who was the golden boy of
 2 the Green Bay Packers, were suspended for gambling.
 3 Why, there was a shockwave. Vince Lombardi has said
 4 over and over, it was the loneliest, saddest day of
 5 his life. Gambling on sports in a state which set up
 6 legal gambling, people are asking me why would you
 7 feel this way? The only people that could ask me
 8 that are people who haven't been involved in sports
 9 or aren't sports fans, with all due respect.
 10 Q. Commissioner, are you aware that Las Vegas legalized
 11 sports gambling in 1951?
 12 A. Yeah, sure am.
 13 Q. And that business expanded into the casinos because
 14 of change in federal law in 1974?
 15 A. Fine.
 16 Q. Have there been any gambling scandals involving Major
 17 League Baseball since 1974?
 18 A. No. But there is no team in Las Vegas either for
 19 that reason.
 20 Q. I didn't limit my question to teams in Las Vegas.
 21 A. What happens in Las Vegas is at that time. But I
 22 remember, and I'll be very candid, we played an
 23 exhibition game, a couple of them in 1984 I think.
 24 '83 maybe I think. And Commissioner Kuhn had a fit
 25 about it, called me. And he and I happened to be

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1 A. Yeah, it is irrelevant because we watch, what happens
 2 in Las Vegas, is, you know, whether I approve that or
 3 not, and I really don't -- I really don't disapprove.
 4 That's their business. But it is not consistent with
 5 an American sport that is a quasi-public institution.
 6 Q. Has Major League Baseball considered having a
 7 franchise in Las Vegas?
 8 A. No.
 9 Q. Never?
 10 A. Oh, I think -- I think that people talked about it.
 11 But as I said, as long as I'm Commissioner, there
 12 will be no franchise in Vegas. We won't even
 13 consider it.
 14 Q. So you have never considered --
 15 A. No. And by the way, since I've been doing this
 16 since -- for a long time and before that, no, that
 17 was never any really serious consideration a
 18 franchise in Vegas, at all. At least I can't
 19 remember since 1970. Now, maybe somebody did it in
 20 1912.
 21 Q. Commissioner, let's take a look, again, at the
 22 exhibit that's in front of you, Exhibit 13. On page
 23 3 let's look at paragraph 6 again.
 24 A. What paragraph?
 25 MR. MISHKIN: Over --

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1 very close. And he was right. And I said I promise
 2 you Bowie, we'll never come back there again, and we
 3 didn't. But okay, if that's a culture, fine. But it
 4 is not a culture consistent with a sport that depends
 5 on 100 percent integrity.
 6 So, you know, people would ask why isn't
 7 there a team in Las Vegas, because baseball is too
 8 concerned with integrity -- not too concerned, but
 9 always consumed by it. And I wouldn't place our
 10 players in that kind of atmosphere. So what that
 11 culture has done is fine. Doesn't make it right, and
 12 it certainly doesn't -- it's not where a social
 13 institution that's a quasi-public institution should
 14 be.
 15 Q. Commissioner, since 1974 though isn't it true that
 16 there have been no gambling-related scandals with
 17 Major League Baseball that resulted from legalized
 18 gambling in Las Vegas?
 19 A. That's -- but that's quite irrelevant.
 20 Q. Well, can we just start with an answer to my
 21 question? Has there been one?
 22 A. Fortunately no, because of our attitude and all the
 23 things that we've done.
 24 Q. And that's why you say it's irrelevant that there
 25 hasn't been one?

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1 THE WITNESS: 6.
 2 MR. MISHKIN: You're fine.
 3 BY MR. WEGNER:
 4 Q. In your declaration at that point, Commissioner, you
 5 state: Specifically plays, coaching decisions and
 6 umpiring calls would be questioned by fans who
 7 suspect that the fix is in. If fans suspect that
 8 plays, decisions and umpiring are in any way
 9 influenced by sports gambling, they will more likely
 10 disengage from what they perceive to be a tainted
 11 sport rather than continue to invest their energy in
 12 it.
 13 Other than what you've testified to so
 14 far --
 15 A. Yeah.
 16 Q. -- Mr. Commissioner, do you have any other evidence
 17 to support that statement?
 18 A. I have all the evidence I need. I know how people
 19 feel about gambling. I know how sports fans feel. I
 20 know how they feel, the players. I said I have --
 21 I've walked every Major League park in most every
 22 park in America. I know how they feel. And there is
 23 no good, I'll say it again, that creating more
 24 opportunities for people to gamble on baseball.
 25 Q. And that's your opinion, sir?

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MR. MISHKIN: Object.

THE WITNESS: I think it's more than an opinion. I think it's an expert opinion based on 50 years of experience.

BY MR. WEGNER:

Q. So do you plan to testify in this case as an expert?

MR. MISHKIN: Objection, objection.

That's a question for counsel, not for the witness.

MR. WEGNER: Well, I don't want to inconvenience the Commissioner by having to take his deposition again. If he's going to be testifying as an expert, I should know this now so we can --

MR. MISHKIN: Mr. Wegner, I think you know our position with all of this testimony. Every one of these depositions is irrelevant, unnecessary. The case will be decided without any further factual development necessary. The Commissioner is here as the Commissioner of Baseball. I think in that capacity, you should ask whatever questions you want.

MR. WEGNER: As you know, Counsel, there is a difference between the line of questioning that I would engage in based upon the Commissioner's personal perception as opposed to his rendering an expert opinion, which would have to be qualified

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BY MR. WEGNER:

Q. Commissioner, let me ask you this then. Other than the testimony that you've provided so far, okay, which is based upon your experience.

A. Um-hum.

Q. And your opinion.

A. Um-hum.

Q. And your concerns.

A. Yes.

Q. Do you have any other evidence that would support the allegations in your declaration concerning the adverse impact the implementation of the New Jersey gambling law would have on Major League Baseball?

MR. MISHKIN: It's been asked and answered repeatedly. Go ahead.

THE WITNESS: As I said, and I'll say it again, I have 50 years of experience in this sport. And I have been through a lot with many issues. And on this subject I feel quite confident of my position.

BY MR. WEGNER:

Q. But you've articulated for us today so far in your deposition all of the bases of that opinion, correct?

MR. MISHKIN: Objection, argumentative. You can answer the question, Commissioner.

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under Daubert, and I want to know at least as of today --

MR. MISHKIN: No, that's wrong.

MR. WEGNER: -- is he testifying as an expert or as a --

MR. MISHKIN: He's testifying as the Commissioner of Baseball. And whatever weight that gives to his testimony, it gives. He's not here under any other title or any other capacity except as the Commissioner of Baseball.

MR. WEGNER: Okay.

MR. MISHKIN: And a witness that you've called.

MR. WEGNER: So when you say his capacity, I can proceed today with the expectation that he is not an expert qualified under Daubert?

MR. MISHKIN: Absolutely not. You can proceed to question the Commissioner of Major League Baseball. Whatever weight as with any witness, because lay witnesses can give expert opinions wholly apart from Daubert. So whatever weight the factfinder chooses to give this testimony because he's Commissioner, because of his experience, the factfinder will give. You are -- this is your witness. Proceed as you choose.

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THE WITNESS: I think I've articulated my position as clearly as I can.

BY MR. WEGNER:

Q. As completely as you can?

A. I think so, yeah.

Q. Let's take a look at paragraph 7 of your declaration on page 3. You state that beyond increased suspicion of underhanded dealing, increased sports gambling also makes it more likely that people will actually attempt to fix games or obtain inside information.

Is the basis, your basis for that statement the same as you have testified to so far in your deposition?

A. It is, absolutely.

Q. Do you have anything to add to that?

A. No. Creating another mechanism to create gambling I think is just -- is not only objectionable but has the potential to do great evil. I've said that.

Q. Just to be clear about this, and I'll move off this one, Commissioner, has Major League Baseball conducted any analysis, never mind studies but analysis, that there would be a likelihood that more people will attempt to fix games if gambling is promoted or authorized in New Jersey?

MR. MISHKIN: Object to the form of the

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1 question.

2 THE WITNESS: To create more opportunities
3 for people to gamble creates more opportunities for
4 people to do bad things.

5 BY MR. WEGNER:

6 Q. So it increases the threat?

7 A. Of course it does.

8 Q. Anything else?

9 A. No.

10 Q. Commissioner, the Blue Jays are a Canadian team,
11 correct?

12 A. Last time I looked.

13 Q. Is there a greater likelihood that there will be game
14 fixing on Blue Jays games in Canada where sports
15 wagering is legal than in the United States?

16 MR. MISHKIN: Object to the form of the
17 question only because it's confined in certain ways.
18 It's not -- many things about sports gambling are
19 not legal in Canada.

20 MR. WEGNER: Then the Commissioner can
21 answer the question.

22 THE WITNESS: I don't know that. The only
23 thing I know is that my friend, Mr. Paul Beeston who
24 is the president of the Blue Jays, has the same
25 feelings about gambling and baseball that I do.

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1 players were gambling on their team? I mean we spend
2 all this effort to make sure that our sport is -- has
3 great integrity, has never, as I said earlier, there
4 is never a scintilla of doubt about its outcome.
5 There is no question that that's accurate, no
6 question.

7 Q. Commissioner, you just said that if players were
8 betting on the games.

9 A. Somebody got to the players obviously. I hate to
10 bring up Arnold Rothstein again, but you keep giving
11 me that opportunity. So you create a mechanism,
12 people are gambling on a sport, and ultimately, as
13 happened, has happened in another sport, created
14 another mechanism in which a gambler then gets to a
15 player.

16 Q. Commissioner, if the New Jersey statute is
17 implemented, that's not going to change MLB's rules
18 against gambling, is it?

19 A. No, no.

20 Q. So those rules would remain in place?

21 A. That's correct.

22 Q. And they have been effective in deterring game fixing
23 since 1919?

24 A. So you would tell me that you could justify a state
25 going to gambling on sporting events with potential

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1 Concern, limit as much as you can of the
2 opportunity, and just as sensitive about everything
3 I've testified today that I do.

4 BY MR. WEGNER:

5 Q. Commissioner, let's take a look at paragraph 8.

6 A. 8.

7 Q. Of your declaration.

8 A. Yeah.

9 Q. And there you state, sir, that another likely result
10 of sports gambling is that fan loyalty would diminish
11 as many fans would focus less on their allegiance to
12 certain teams, players or cities and instead focus
13 more on the outcome of individual bets.

14 Do you have any evidence to support that
15 statement other than what you've given to me so far
16 today?

17 A. I'm trying here to be thoughtful and not give you a
18 smart alecky answer, but these questions are -- you
19 can't be serious. The threat of gambling or the
20 threat of -- the average sports fan not only
21 understands it, it would be stunning. Of course they
22 understand it.

23 If I took you to Miller Park today and sat
24 you down with four people and said gee, what do you
25 think, would you be offended if you knew Brewer

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1 to do harm, and that's really a good thing. Is that
2 what you're saying to me?

3 Q. What I'm trying to say, sir, is there is no evidence
4 so far --

5 A. Oh.

6 Q. -- as to why it is harmful.

7 A. Well, you may think so.

8 MR. MISHKIN: I object.

9 THE WITNESS: I violently disagree with
10 you.

11 BY MR. WEGNER:

12 Q. I apologize, Commissioner. It's really not
13 appropriate for me to be answering questions from you
14 to me because then they're argumentative.

15 THE WITNESS: Leave it to my attorney.

16 MR. MISHKIN: Let's stop the argument, put
17 a factual question, and I assure you you will get a
18 factual answer as best as the Commissioner can give
19 it to you, which I think that as you can see from
20 his answer, he believes he has done repeatedly
21 already.

22 THE WITNESS: Maybe 50 times already.

23 BY MR. WEGNER:

24 Q. So let's focus on this paragraph we're discussing,
25 Commissioner, where you say that another likely

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1 result of sports gambling is that fan loyalty would
2 diminish as many fans would focus less on their
3 allegiance to certain teams, players or cities and
4 instead focus more on the outcome of individual bets.

5 Let me ask you this. Is it your testimony
6 that fans, baseball fans in this country, do not bet
7 on baseball games?

8 A. I don't know whether they do or they don't. I do
9 know that if they think the integrity of the sport is
10 being impugned, those same people would be offended
11 out of their minds, and our sport would suffer
12 irreparable damage and harm.

13 Q. I think everyone would be offended by that,
14 Commissioner. My question though is are fans, this
15 is -- this specifically addresses in your declaration
16 a diminution of fan loyalty as a result of the New
17 Jersey statute being --

18 A. I believe so. I believe that that's accurate.

19 Q. On what do you base that belief, sir?

20 A. I base it on my knowledge of fans and how they think
21 and how offended they are by gambling.

22 Q. So it's your view that gambling can in no way
23 increase fan loyalty?

24 A. No, I don't think it -- look, we have the most loyal
25 fans in the world, and I don't think gambling plays

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1 A. If you're telling me today that in New Jersey's lust
2 for cash, they're going to set up a gambling
3 mechanism is helpful to baseball, then that's so
4 farfetched that I don't know what else to say about
5 it. And I mean that sincerely. That is beyond -- I
6 know people rationalize behavior a lot. I know
7 people rationalize a lot of things they do. But if
8 you're telling me that the Governor really wants to
9 help baseball by doing this, it's so farfetched that
10 I'm -- it's absurd.

11 Q. But other than your opinion, Commissioner --

12 MR. MISHKIN: Objection. Mr. Wegner,
13 please.

14 MR. WEGNER: Yes.

15 MR. MISHKIN: That's a
16 mischaracterization. It's not just his opinion.
17 He's been very, very clear about what the basis of
18 his testimony is, and you keep saying other than
19 your opinion. That's objectionable.

20 BY MR. WEGNER:

21 Q. Commissioner, let's be clear about that then. Do you
22 have anything other than your opinion that the
23 implementation of the New Jersey gaming statute would
24 be harmful to Major League Baseball other than your
25 opinion?

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1 any role. I believe I've testified to that already.
2 None. Zero. If you take all gambling away, I'll
3 repeat this again, we'll draw 75 million people next
4 year, and they won't be any less loyal.

5 Q. And what is the basis for that assumption, sir?

6 A. My own 50 years of experience.

7 Q. Have you done any actual studies --

8 A. I know why we draw fans, I know how we draw fans, and
9 I see no role of gambling whatsoever.

10 Q. Commissioner, that's a pretty specific number though.
11 Have you actually --

12 A. 75 million is what we drew this year.

13 Q. Okay.

14 A. I'm sorry, there is nothing specific about it. We
15 did it.

16 Q. But you think you would increase your
17 spectatorship --

18 A. I didn't say that. I said it won't affect our
19 attendance negatively. In fact, I expect we will
20 have a bigger year next year because we have a lot of
21 things working which is neither here nor there in
22 this discussion.

23 Q. But that spectatorship and those numbers, it is your
24 testimony you do not know whether those fans are or
25 are not betting on teams, baseball teams?

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1 A. I think I have history on my side, too, as well as my
2 opinion. I have history. I know what we do. I know
3 how insidious gambling is. I know how immoral it is.
4 I know how unethical it is. And I know from having
5 been an owner, a fan first of all, a fan to this day,
6 its Commissioner, I know that. There is no good that
7 can come from it, only bad and evil. I don't know, I
8 can't be any clearer, can I?

9 Q. Can you be any more complete? Is that it, or is
10 there more?

11 A. No.

12 Q. All right, Commissioner, let's look at paragraph 12
13 on page 4 of your declaration.

14 A. Geez, almost done with this thing? Holy mackerel.

15 MR. MISHKIN: Almost done.

16 THE WITNESS: Yes, sir.

17 BY MR. WEGNER:

18 Q. You state, quote: In 1991, along with other major
19 sports leagues, MLB was an active and vocal proponent
20 of PASPA, P A S P A.

21 A. Yup.

22 Q. Lending its strong support to that bill which
23 ultimately passed the Senate by an 88 to 5 vote.

24 Do you know who came up with the idea for
25 PASPA?

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1 A. I do not.
 2 Q. Do you know who drafted the language?
 3 A. I do not.
 4 Q. Did Major League Baseball make campaign contributions
 5 to PASPA sponsors?
 6 A. I have no idea. I was not the Commissioner in those
 7 days.
 8 Q. Then you also probably wouldn't know if Major League
 9 Baseball proposed the exemption for Nevada?
 10 Actually --
 11 A. Do not know, I would not -- you would have to --
 12 can't go back to Bart Giamatti, he's not with us
 13 anymore, so I don't know.
 14 Q. Do you have an opinion about why there is an
 15 exemption for Nevada in PASPA?
 16 A. I have no idea.
 17 Q. All right.
 18 MR. WEGNER: If you would like, this is a
 19 good place to take a break because we finished with
 20 your declaration, Commissioner.
 21 THE VIDEO OPERATOR: Time is 12:46 p.m. I
 22 want to put this on the record, the camera is one
 23 hour ahead. It is actually 12:46.
 24 (Recess taken.)
 25 THE VIDEO OPERATOR: Time is 1:02. We are

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1 Q. Okay. My question then is let's talk about the
 2 illegal gambling market. Would you find the fact
 3 that fans, if they do, are betting on Major League
 4 Baseball teams in the illegal gambling market, would
 5 you find that offensive?
 6 A. Well, when you say fans, how many, what are we
 7 talking about. I mean that's -- it's just -- again,
 8 I'll repeat to you, knowing the demographics of our
 9 fans, knowing where they come from, knowing sitting
 10 here in Milwaukee, Wisconsin, I would be very
 11 surprised. And I meant what I said to you before
 12 very sincerely, gambling could do no good for this
 13 sport. It can only do harm and evil.
 14 Q. Would you consider a fan of Major League Baseball
 15 that bets on Major League Baseball games to be a less
 16 desirable fan than one that doesn't?
 17 A. I don't make those kind of comments. I, you know, if
 18 somebody wants to do something, we all have to live
 19 our lives the way we want to live them.
 20 Q. Let me see if I can be more specific then. Would you
 21 find that a fan that bets on Major League Baseball
 22 games is one that is harming Major League Baseball?
 23 A. You know how I feel about gambling, so I don't think
 24 I have to go back on that. And I don't believe any
 25 high percentage or even low percentage of our fans

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1 now back on the record. The camera states the
 2 correct time now.
 3 BY MR. WEGNER:
 4 Q. Commissioner, just to wrap up, and then we'll move on
 5 to the complaint which shouldn't take long. Would
 6 you find it offensive that fans, baseball fans, bet
 7 on Major League Baseball teams in Las Vegas?
 8 A. Look, our fans have to do what they want to do. I
 9 think I know the demographics of our fans. I know
 10 the type of families that come in. When I ran the
 11 Brewers here, I knew every season ticket holder. I
 12 used to walk the park, sometimes to bitch and grumble
 13 about the way the team was playing, but other than
 14 that, just to talk to people, understand why they
 15 were there, how they were there.
 16 So when I said to you earlier that I
 17 really have an understanding of our fans, I do. I do
 18 that in ball parks I go to. I try to visit most
 19 every franchise in the course of a year, and I think
 20 I really, I do understand our fans. And so the
 21 question you asked me would surprise me. Would I be
 22 offended, no. Everybody in life has to do what they
 23 want to do. But knowing the demographics of our
 24 fans, knowing how families come to games and how they
 25 do things, that would surprise me greatly.

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1 gamble on games. But if there are people out there
 2 that do that, there is nothing I can do about it, and
 3 there is no way to know that.
 4 But I want to repeat again, I know how
 5 people come to games. I know who comes. We study,
 6 study patterns. And I -- that statement, that would
 7 surprise me, and I believe it's in error.
 8 Q. Well, Commissioner, if there are fans who are betting
 9 on Major League Baseball games in a legal or an
 10 illegal market, are those fans harming Major League
 11 Baseball?
 12 A. The threat of gambling harms baseball. I won't say
 13 those fans are doing -- I don't know that there are
 14 any who do that. This is just a hypothetical that
 15 you're raising, frankly, without any -- without any
 16 back up. So I don't know that that's the case. I
 17 just don't know that.
 18 Q. So is that a no?
 19 A. I -- any gambling that has any relationship with
 20 baseball, there can -- no good can come from that.
 21 That's my answer to that question.
 22 Q. So then to be clear then, is it your testimony that a
 23 fan who gambles on Major League Baseball teams is
 24 harming Major League Baseball?
 25 A. I stand on the answer that I gave.

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1 MR. MISHKIN: It's been asked and
2 answered.
3 THE WITNESS: Yeah. I stand on that
4 answer.
5 BY MR. WEGNER:
6 Q. Is that a yes then?
7 A. Any relationship of gambling --
8 MR. MISHKIN: It's been asked and
9 answered.
10 THE WITNESS: -- cannot help baseball but
11 can only hurt.
12 BY MR. WEGNER:
13 Q. So fans gambling on Major League Baseball harms Major
14 League Baseball?
15 MR. MISHKIN: Objection, it's been asked
16 and answered.
17 BY MR. WEGNER:
18 Q. You can answer it.
19 A. No, I think I've answered it frankly. I think I've
20 answered it quite well as a matter of fact.
21 Q. Commissioner, in the Las Vegas AAA league there is a
22 Las Vegas team the 51s; is that correct?
23 A. Um-hum, that's correct.
24 Q. And that team is based in Las Vegas?
25 A. Um-hum, it is.

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1 Q. You haven't seen it before?
2 A. No, sir.
3 Q. Are you aware that it's the complaint in this action?
4 A. Well, it says it, so I guess I'm aware of it.
5 Q. As Commissioner of Baseball, did you have to
6 authorize the lawsuit against New Jersey?
7 A. Talked to our counsel, Mr. Ostertag, who, of course,
8 is here today and --
9 Q. Commissioner -- please, proceed.
10 A. And the answer is yes, I did.
11 Q. You authorized --
12 A. Through Mr. Ostertag, yes. Very strongly as a matter
13 of fact.
14 Q. Did you talk to --
15 A. Without equivocation which isn't often the case with
16 Mr. Ostertag, right, Tom? Okay.
17 Q. Did you talk with anyone else at the other leagues
18 about the decision to sue New Jersey?
19 A. I have not.
20 Q. Have you talked with anyone else at the other leagues
21 since the suit has been filed against New Jersey?
22 A. I have talked to them but not about this.
23 Q. Commissioner, could you take a moment and look at
24 paragraph 5 on page 3 of Exhibit 3.
25 A. 5.

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1 Q. And is it true that occasionally pro players
2 recovering from an injury or something will play on
3 that minor league team?
4 A. Yeah. I think it was a Dodger farm club. I'm not
5 sure who it is now. Maybe it is. Dodgers?
6 Q. Yes. Mets?
7 A. Is it the Mets now? That's right, the Dodgers went
8 back down. Yes, I'm sure everybody sends injured
9 players to AAA to rehab, yeah.
10 Q. And there is a AAA team in Las Vegas?
11 A. Yes, there is.
12 Q. Do you have a problem with that?
13 A. Not happy about it, but we -- you know, it's tough to
14 find good AAA franchises with ball parks and things.
15 So I'm not surprised.
16 Q. Commissioner, let's show you Major League Baseball
17 exhibit previously marked 3 which is the complaint in
18 this matter.
19 A. Good. Have I seen that?
20 MR. MISHKIN: No, you haven't. You can
21 take one.
22 BY MR. WEGNER:
23 Q. Commissioner, have you had a chance to look at that
24 document, Exhibit 3?
25 A. No, I haven't seen this before.

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1 (Witness peruses document.)
2 A. I've just read it, and I agree with it
3 wholeheartedly.
4 Q. And do you have any evidence to support the
5 allegations in that complaint other than what you've
6 testified to so far today?
7 A. Not other than what I testified to.
8 Q. This is going to be easy, Commissioner. Let's go to
9 the next paragraph.
10 A. Okay.
11 Q. Paragraph 6, take a moment and read that, please.
12 (Witness peruses document.)
13 A. I agree with that.
14 Q. Do you have any evidence, other than what you've
15 testified to today, that supports paragraph 6 in the
16 complaint, Exhibit 3?
17 A. Well, I believe I've already testified to it.
18 Q. I'm just asking do you have anything else that
19 supports that allegation?
20 A. No, sir. No, sir.
21 Q. Then we're done with that, sir.
22 MR. MISHKIN: We're finished with that
23 document.
24 THE WITNESS: We're done?
25 MR. MISHKIN: With that document.

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1 THE WITNESS: That document. Got all
2 excited.
3 MR. MISHKIN: Not sure whether we're done,
4 but maybe we're close.
5 THE WITNESS: Thank God that we didn't do
6 what we did in the first document, or we would be
7 here until -- well, you might have been here, I
8 would be gone by that point.
9 MR. MISHKIN: Let's see what else we have.
10 BY MR. WEGNER:
11 Q. Commissioner, at one point did Major League Baseball
12 operate the Montreal Expos?
13 A. We did, yes, sir.
14 Q. When was that, sir?
15 A. Well, let's see, Montreal got a team in 1969. Now
16 this is -- test my memory. And we kept it there
17 through the '03 or '4 season.
18 Q. And during that time period, Commissioner, was sports
19 gambling lawful in Canada?
20 A. I said I didn't know the Canadian law, but they were
21 there, yeah.
22 Q. Do you know if legal bets were placed on the MLB's
23 Montreal Expos in Canada any time from 1969 to 2003
24 or '4?
25 A. I have no idea.

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1 Las Vegas?
2 A. Well, I have a home, so I'm in Arizona a lot. I
3 don't know of any relationship they have with Las
4 Vegas, directly with Las Vegas.
5 Q. Are you aware that they have a link on their website
6 that allows viewers to link up with sportsbooks over
7 the internet?
8 A. I am not.
9 Q. If that is so, do you see that as a problem?
10 A. I would have to look at it, yeah. I would have some
11 concerns about that. But we are not aware of that.
12 But yes, I would have concerns. In fact, we'll do
13 that this afternoon.
14 Q. Commissioner, have you made the statement concerning
15 the Diamondbacks' internet site on its home page that
16 their -- and the fact that it includes a page on
17 sportsbooks, that you found no trouble with that
18 set-up even though the gaming guide appears side by
19 side with the Diamondbacks logo and home page and
20 that you think that there is still enough of a
21 firewall so that it doesn't affect our game or the
22 integrity or the integrity of the game played on the
23 field?
24 A. Are you --
25 MR. MISHKIN: The question is did you --

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1 Q. Did the Expos have an online casino as a main
2 sponsor?
3 A. I don't know that. I don't remember that now. They
4 have been gone a long time.
5 Q. Has the MLB in the past say five, six years,
6 reassessed its positions with respect to casinos and
7 advertising?
8 A. Yes, we've talked about that. We have, um-hum.
9 Q. And what is the MLB's position on that?
10 A. Well, we take it one by one as Mr. Ostertag knows,
11 and we discuss it. We discuss what type of
12 advertising and how they're going to do it, what
13 they're going to do. I understand that clubs need
14 sponsorships and so on and so forth. We do that.
15 Q. Is it fair to say that that is a reevaluation of
16 MLB's prohibitions on associations with gambling?
17 A. No.
18 Q. Why not?
19 A. Because, I know I've testified to this already, it's
20 one thing to have a sponsorship but another thing to
21 encourage gambling on sports events, on baseball
22 games, which is a huge difference. And so no. Is
23 our position on gambling as I have testified now many
24 times here today changed, no.
25 Q. Did the Arizona Diamondbacks have a relationship with

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1 do you recall making that statement?
2 THE WITNESS: No, no. I have no
3 recollection of that at all, didn't know about it.
4 And I will tell you right now if that thing exists,
5 it won't by 3:00 this afternoon. In fact, if you'll
6 finish up, I'll get it done by 2:00.
7 BY MR. WEGNER:
8 Q. Commissioner, have you ever made the statement before
9 that the restrictions on gambling and baseball have
10 to be relaxed because, after all, gambling is legal
11 everywhere?
12 A. No.
13 Q. You never made that statement?
14 A. No.
15 Q. Do you think gambling is everywhere?
16 MR. MISHKIN: Object to the form of the
17 question.
18 THE WITNESS: I'm not -- you know, I'm not
19 an expert in gambling, so I can't -- that's -- you
20 know, we can sit here and talk about it all day
21 long.
22 BY MR. WEGNER:
23 Q. Commissioner, does the Major League Baseball host
24 competitions for fans that award payouts based upon
25 the outcome of the game?

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1 MR. MISHKIN: Object to the form of the
2 question.
3 THE WITNESS: Do we what?
4 BY MR. WEGNER:
5 Q. I'll restate the question. Does Major League
6 Baseball host competitions for fans that award
7 payouts based on the outcome of the game?
8 MR. MISHKIN: Object to the form of the
9 question.
10 MR. WEGNER: Let me --
11 THE WITNESS: I don't know what you're
12 talking about. You'll have to be more specific.
13 MR. WEGNER: All right.
14 BY MR. WEGNER:
15 Q. I'll say it again because I'm not sure how you make
16 it more clear. I'm asking if Major League Baseball,
17 that's you, hosts, supports, hosts, competitions for
18 fans that awards payouts based upon the outcome of
19 the game?
20 MR. MISHKIN: The problem is -- at least
21 one of the problems is what do you mean the -- which
22 game?
23 MR. WEGNER: A game. Let's change it to a
24 game.
25 MR. MISHKIN: A game.

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1 with fantasy, they can do. It's exactly what it is.
2 It's fantasy.
3 Q. Okay. Let's look at Major League Baseball Exhibit 4,
4 please. Commissioner, I apologize for the small
5 print, that's how it was produced to us.
6 A. It is small, and you know --
7 Q. That's the only one we got from you guys.
8 A. That's okay. Yup. MLB.com, yes.
9 Q. Commissioner, I'm not going to ask you to read all of
10 it. If it's agreeable to you, I'll just direct your
11 attention to some of the places on there. Let's
12 start that in 2012 Major League Baseball sponsored a
13 Fantasy Baseball contest, right?
14 A. Yes.
15 Q. And there was a monetary prize?
16 A. Um-hum.
17 Q. If you go to -- there is a Bates stamp number on
18 this, Commissioner. If you go to 4081 after all the
19 four zeros. It's page 11.
20 MR. MISHKIN: 4081. It's at the bottom.
21 Here is the number. Right there, Commissioner.
22 BY MR. WEGNER:
23 Q. It's in the center of the page, Commissioner. Again,
24 it's hard to find. But on page 11 under grand prize,
25 do you see that, Commissioner?

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1 THE WITNESS: To what form, what device?
2 MR. MISHKIN: Actual Major League Baseball
3 game?
4 MR. WEGNER: Exactly. Let me restate the
5 question.
6 BY MR. WEGNER:
7 Q. Does Major League Baseball host competitions for fans
8 that awards payouts based upon actual Major League
9 Baseball games?
10 A. Not that I'm aware of.
11 Q. Does Major League Baseball host competitions for fans
12 that award payouts based upon the outcome of a
13 particular at bat?
14 A. I'd have to know what form. This just is way too
15 general and too vague. To what mechanism? Where?
16 What? I don't know what you're talking about.
17 Q. Let's get more specific then, Commissioner.
18 A. Yeah.
19 Q. Does Major League Baseball endorse Fantasy Baseball?
20 A. We think we have through our internet company and
21 others, I think we do, yes.
22 Q. Why?
23 A. Well, anything that will create interest in baseball
24 is fine. They're welcome to do fantasy games are --
25 that's not real life. So whatever they want to do

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1 A. Yeah.
2 Q. It says that there is a grand prize of \$10,000.
3 A. Yeah, yes.
4 Q. Why did Major League Baseball sponsor this contest?
5 A. Well, I think given the fantasy leagues and all the
6 things that go on in life and talk about creating
7 opportunities to make more fans and create more fans,
8 anything to do with baseball is helpful.
9 Fantasy fortunately is a lot different
10 than real life. And so I don't have a problem with
11 picking players and doing things and competing. They
12 do that in all sports, and they do that here. And as
13 long as the word "fantasy," and I want to emphasize
14 that, so that there is no -- there is no threat of
15 gambling and its relationship to the games played on
16 the field, not fantasy, on the field, it's a huge
17 difference here. This is helpful to the sport.
18 Q. Why offer a monetary prize of \$10,000?
19 A. Well, you would have to talk to the people that run
20 that for us. I don't think that's a great problem.
21 It doesn't affect the outcome of a game played on the
22 field. Let's be as clear as we can be. We can sit
23 here and talk about Fantasy Baseball or Fantasy
24 Basketball or football all day long. I think it
25 helps. I think it helps create more interest in the

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1 sport. And as long as it's fantasy and it doesn't in
2 any way, shape, form or manner impact the game played
3 on the field, I don't have a problem with it.

4 Q. But Fantasy Baseball is driven by the actual
5 performance of the athletes on the field, correct?

6 MR. MISHKIN: Object to the form of the
7 question.

8 BY MR. WEGNER:

9 Q. You can answer that, Commissioner.

10 A. Well, that has nothing to do with the performance on
11 the field. It doesn't have anything to do with that.
12 Basically you're in a fantasy league, but it's
13 fantasy. That's exactly what it is. It's fantasy.

14 Q. What is your understanding of Fantasy Baseball,
15 Commissioner?

16 A. Well, my understanding of Fantasy Baseball is people
17 pick teams, they compete against each other. I know
18 what they do. In fact, our fans will often talk to
19 me about it. But the fact that their performance on
20 the field, it isn't helpful to the player, it isn't
21 helpful to any team, it isn't helpful to anything but
22 to this right here. But it doesn't in any way impact
23 the game being played on the field.

24 Q. But Fantasy Baseball --

25 A. Like gambling does.

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1 MR. MISHKIN: Again, object to the form of
2 the question. If you understand what's being
3 asked --

4 THE WITNESS: No, I really don't
5 understand it. Look, I've said to you before and
6 I'll say it again, Fantasy Baseball is exactly that.
7 If Fantasy Baseball plays a role in helping,
8 especially our younger fans, enjoy the game and pick
9 out their favorites and see how they do against
10 somebody, fine. It doesn't impact the game. It
11 doesn't impact the game that we play on the field.
12 It doesn't have -- it helps us as opposed to
13 gambling which can only harm us and only create
14 evil.

15 BY MR. WEGNER:

16 Q. And that, Commissioner, is because you believe that
17 having a financial stake in the outcome of a game is
18 harmful to the game?

19 A. Well --

20 MR. MISHKIN: Object to the form of that
21 question. You can answer it. Can you read it back,
22 please?

23 (Record read.)

24 THE WITNESS: You're asking me if having a
25 financial -- on gambling on a game is harmful to the

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1 Q. But Fantasy Baseball, success or failure of a Fantasy
2 Baseball player depends upon the actual performance
3 of players.

4 A. Absolutely not -- yeah, but it has no relationship to
5 a game being played on the field, none, zero.

6 Q. Other than the statistics that the players on the
7 field are generating, correct?

8 A. Doesn't impact the game played on the field. When
9 the Mets played the Cubs, the Mets played the Cubs,
10 the game is over. It doesn't affect anything.

11 Q. Does MLB have any concern that Fantasy Baseball
12 players will want their teams to perform in
13 accordance with their predictions in Fantasy Baseball
14 as opposed to just fan loyalty?

15 MR. MISHKIN: Object to the form of the
16 question. Could you read it back? I'd like it read
17 back.

18 MR. WEGNER: Let me rephrase it. It's
19 easier.

20 BY MR. WEGNER:

21 Q. Is there any concern in Major League Baseball that
22 Fantasy Baseball players are more concerned with the
23 way that the team or team players perform in their
24 fantasy league than their actual performance on the
25 field?

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1 game? I don't know, go ask Shoeless Joe Jackson I
2 guess if you can find him. Of course it's harmful.

3 BY MR. WEGNER:

4 Q. And isn't it correct that Fantasy Baseball players
5 have a financial interest in the outcome of the
6 performance of players in their fantasy league?

7 A. No, it is not true.

8 Q. Why not, sir?

9 A. It doesn't impact the game that we play on the field.
10 It might impact the game between you and Mr. Mishkin.
11 That's not -- that doesn't -- this is all fantasy.
12 This is all -- we're not dealing in fantasy when the
13 Yankees played the Red Sox. There is a huge
14 difference. No, I -- the whole fantasy concept is
15 just, it's irrelevant and not related to the real
16 world.

17 Q. Commissioner, I'm trying --

18 A. Not related to the real world.

19 Q. Well, Commissioner, I'm trying to actually ask you
20 questions about where it is related to the real
21 world, and that has to do with fans' perception of
22 the game. You talked earlier today about fans'
23 motivation.

24 A. Right.

25 Q. Fan loyalty. Is it your view that Fantasy Baseball

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1 does not present a situation where a fan would have
 2 divided loyalties for its team or for the particular
 3 outcome of its fantasy team?
 4 A. No, it does not. No.
 5 Q. Why not?
 6 A. There is no relationship how his fantasy team is
 7 doing as opposed to the Milwaukee Brewers or the
 8 Pittsburgh Pirates. None. In fact, it's so
 9 farfetched, with all due respect, I'm not sure you're
 10 serious. There is no relation.
 11 Q. Well, let me see if I can give you an example where
 12 there is.
 13 A. Yeah.
 14 Q. Let's say that you have -- I'm on a fantasy league,
 15 and I have a certain pitcher.
 16 A. Um-hum.
 17 Q. And I want that pitcher to throw a certain number of
 18 strikes in the game, okay. And so I have an interest
 19 in that pitcher, let's say it's a Dodger pitcher.
 20 A. Yeah.
 21 Q. But I'm a Giants fan.
 22 A. Yeah.
 23 Q. So at a game is it not correct that I have an
 24 interest in my Dodger pitcher throwing a certain
 25 number of strikes even if that harms my team which is

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1 pitcher, will throw in my fantasy league. Are we
 2 clear so far?
 3 A. Yeah.
 4 Q. And yet I am a Giants fan. At a game where the
 5 Dodgers are playing the Giants, is it not correct
 6 that I, as a fan, have two different motivations on
 7 the field at that time. One, I want my pitcher, my
 8 fantasy pitcher, to throw more strikes; and the
 9 second is I want my Giants to win.
 10 MR. MISHKIN: Object to the form of the
 11 question.
 12 THE WITNESS: It has nothing to do with
 13 Clayton Kershaw's pitching in a game against the
 14 Reds, the Giants or anybody else. It's a fantasy
 15 game that is unrelated, has no relationship to Major
 16 League Baseball, has no relationship to anything.
 17 All it does, the only potential is it increases
 18 interest amongst some of our fans.
 19 BY MR. WEGNER:
 20 Q. Commissioner, you're answering the question in terms
 21 of the players' perspective. I'm asking you about
 22 the fans' perspective.
 23 A. I think I'm answering the game in the real world.
 24 Fan -- the fans are enjoying themselves in a fantasy
 25 league, and they're also enjoying themselves -- maybe

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1 the Giants?
 2 A. And what does that have to do with the real world
 3 when Clayton Kershaw pitches against the Giants in a
 4 game at Dodgers stadium?
 5 Q. I'm only trying to talk about fans' loyalty and
 6 perceptions.
 7 MR. MISHKIN: I think at this point, Mr.
 8 Wegner, you're arguing with the witness. If you
 9 wish to put a question to him that is not a
 10 repetition of an earlier question, that's fine. But
 11 simply arguing with him as we can do with the Court,
 12 but I don't think that's proper with the witness.
 13 And I think that's what you're doing.
 14 MR. WEGNER: No, actually, I was trying to
 15 refine the question because I didn't get an answer
 16 to the question. So let me try again.
 17 MR. MISHKIN: No, no, you got an answer to
 18 the question. And the answer, apparently you'd like
 19 another one. And so you're asking the question
 20 again.
 21 MR. WEGNER: So I'll ask the question
 22 again, and it's this.
 23 BY MR. WEGNER:
 24 Q. Take my hypothetical, Commissioner, where I have an
 25 interest in the strikes that my pitcher, Dodger

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1 create more interest in baseball, and they go to more
 2 games. That's all there is here.
 3 Q. Even if the fan loses money on its fantasy league?
 4 MR. MISHKIN: Objection.
 5 MR. WEGNER: That's a question.
 6 MR. MISHKIN: With no foundation about
 7 losing money.
 8 BY MR. WEGNER:
 9 Q. Commissioner, are you aware that in Fantasy Baseball
 10 people frequently bet money in the fantasy leagues?
 11 MR. MISHKIN: Objection.
 12 MR. WEGNER: I'm asking --
 13 MR. MISHKIN: No foundation.
 14 MR. WEGNER: I'm asking the foundation. I
 15 want to know if he's aware of that.
 16 MR. MISHKIN: Well, but aware of something
 17 that doesn't exist perhaps.
 18 MR. WEGNER: Well, let me --
 19 MR. MISHKIN: Ask him the question.
 20 Don't -- you have a premise in there.
 21 MR. WEGNER: The question is a
 22 foundational question. There is no premise.
 23 BY MR. WEGNER:
 24 Q. Let me ask it again. Are you aware that in Fantasy
 25 Baseball leagues that participants in that league put

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1 money into a pool that is in effect a bet on the
 2 outcome of the fantasy league?
 3 A. Has nothing to do with the real world.
 4 Q. Sir, are you aware of that?
 5 A. I am not sure I am or I'm not. I don't know. I
 6 don't play Fantasy Baseball. I have enough to keep
 7 my job, keeps me busy playing real baseball in the
 8 real world.
 9 Q. And yet Major League Baseball runs a Fantasy Baseball
 10 website?
 11 A. Okay. I think it creates interest. I said that
 12 before. I've answered it.
 13 MR. MISHKIN: Objection.
 14 THE WITNESS: I've answered it already.
 15 BY MR. WEGNER:
 16 Q. Commissioner, if, just take this as a hypothetical,
 17 if in fact money changes hands in the fantasy league
 18 as a result of the performance of the players, does
 19 that create a split loyalty between fantasy league
 20 players and actual fans of the actual MLB games?
 21 MR. MISHKIN: Objection, lacks a
 22 foundation.
 23 BY MR. WEGNER:
 24 Q. You can answer, Commissioner.
 25 MR. MISHKIN: You can answer it if you

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1 talk about that then.
 2 MR. MISHKIN: Sure.
 3 THE VIDEO OPERATOR: The time is 1:32.
 4 We're going off the record.
 5 (Discussion off the record.)
 6 THE VIDEO OPERATOR: The time is 1:58. We
 7 are now back on the record. This is the beginning
 8 of disk No. 2.
 9 BY MR. WEGNER:
 10 Q. Commissioner, I'd like to talk a little bit about the
 11 policies and practices of Major League Baseball
 12 concerning sports gambling. Let's start with this,
 13 the best interest of baseball power that you have.
 14 What is the best interests of baseball power?
 15 A. Well, the best interest of baseball power gives me
 16 the authority to protect the best interests of the
 17 sport in every way, and that certainly includes
 18 gambling and all the things that we've already
 19 discussed today. It's a broad power that fortunately
 20 during my time they have enlarged it to some degree
 21 to include some economic matters.
 22 But overall, I look at the best interest
 23 clause as simply in every way to do what's in the
 24 best interest of baseball and to protect its
 25 integrity at every level.

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1 understand it.
 2 THE WITNESS: I'm not sure I understand
 3 it. No. All it does, I've said it before, let me
 4 say it to you again, fantasy league creates more
 5 interest. That's its only relationship to the real
 6 world.
 7 BY MR. WEGNER:
 8 Q. Did Major League Baseball conduct any studies
 9 regarding the impact that the prize and its fantasy
 10 league contest would have on match fixing?
 11 A. On what?
 12 Q. On match fixing, game fixing.
 13 MR. MISHKIN: Object to the form of the
 14 question and also it lacks a foundation.
 15 THE WITNESS: I think I already testified
 16 to that. No, and I think we've -- the history of
 17 this sport and other sports will tell you that we
 18 know how deadly that could be. And that's why we
 19 have the policy against gambling that we do.
 20 MR. MISHKIN: Mr. Wegner, because we've
 21 sort of pushed lunch now, about a half hour, if you
 22 are close to concluding, then perhaps we should
 23 press on. If you're not, then maybe we should break
 24 for lunch.
 25 MR. WEGNER: Let's go off the record and

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1 Q. Are there any particular boundaries to that power,
 2 Commissioner?
 3 A. Well, I mean of course, you know, we have to do it
 4 within the constraints of the law. But it's pretty
 5 broad, pretty all-encompassing. And the clubs have
 6 been wonderful about it. I say with me in the
 7 last -- they have always been wonderful. But in the
 8 last 20 years, in times when we have things to do in
 9 the best interests, we do them.
 10 Q. Commissioner, has the best interests of baseball
 11 power ever been used to punish an athlete or umpire
 12 or staff member for betting on baseball?
 13 A. Bart Giamatti, Pete Rose. And I suppose if you go
 14 back, Happy Chandler, the Leo Derosier thing. I know
 15 we talked about that today but the fact that he was,
 16 quote and unquote, I think the term was used
 17 consorting with gamblers, and so Happy Chandler
 18 suspended him for a year which was, at the time, I
 19 remember was quite the story. And then, of course,
 20 the Kenesaw Mountain Landis and what he did with the
 21 Black Sox.
 22 Q. And, Commissioner, was that -- were those sanctions
 23 imposed under the best interests of baseball power?
 24 A. Yes. I mean that's the way I would use it. I think
 25 they were. I think that that's -- yes. The answer

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1 is yes.

2 Q. Commissioner, is the best interests of baseball power

3 something that you used to initiate investigations

4 into specific anti-gambling affairs?

5 A. Yes.

6 Q. How does that work, sir?

7 A. Well, it works when I -- if the Department of

8 Investigation or any of our people, Mr. Ostertag or

9 anybody, comes and says did you know that, and we're

10 investigating, first thing you would think of, of

11 course, is we must protect the integrity, that's the

12 best interest clause and go do what you have to do.

13 Q. Let's talk just specifically though about sports

14 gambling and the best interest provision. If it's

15 fair to say typically, how typically would a sports

16 gambling incident or potential incident be brought to

17 your attention under the best interest provision?

18 A. Well, it would be brought to my attention, it could

19 be in a number of ways. There are so many ways, I

20 don't know that I could sit here today and tell you.

21 If one of our people would hear something or

22 something that would -- club people, could be any --

23 newspaper people, anything, say did you hear that.

24 And I would immediately begin to investigate it under

25 the best interest clause.

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1 (b), Rule 21. And Commissioner, while you're reading

2 it, it may be helpful, I'm going to ask you the same

3 question about that provision and following

4 provisions.

5 (Witness peruses document.)

6 A. Yeah.

7 Q. On how many occasions --

8 A. None. None that I recollect today.

9 Q. Just for the record, let me -- I'll finish the

10 question so that we've got a clear record if that's

11 okay, Commissioner.

12 On how many occasions, if any, has Major

13 League Baseball stripped eligibility under this rule?

14 A. Nobody that I've done it. I don't know before,

15 before me, but nobody.

16 Q. Okay. Thank you, Commissioner. Can you read Section

17 (c), the next section down.

18 A. Yeah.

19 (Witness peruses document.)

20 A. Okay. I've read it so many times that I feel like I

21 can -- yes, sir.

22 Q. Same question, Commissioner, and that's on how many

23 occasions, if any, has Major League Baseball stripped

24 eligibility under this rule?

25 A. I have to go back and check. There is one case that

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1 Q. Commissioner, can you recall there ever being a time

2 when bookmakers in Las Vegas brought to your

3 attention the possibility that there was game fixing?

4 A. No.

5 Q. Commissioner, let's take a look at what's been

6 previously marked as Major League Baseball Exhibit 10

7 which is, I'm sure you're very familiar with, Rule

8 21.

9 A. Right.

10 Q. Looking at Exhibit 10, Commissioner, there is Section

11 (a). And rather than my read it to you, I'm going to

12 ask you to read it. I'm sure you have many times,

13 but could you, for purposes of your deposition, read

14 it one more time to yourself.

15 A. Um-hum.

16 (Witness peruses document.)

17 Q. So we're looking at Exhibit 10, Section (a).

18 A. Yes, sir.

19 Q. Commissioner, on how many occasions, if any, has the

20 MLB permanently stripped eligibility under this rule?

21 A. Back -- before -- since Pete Rose, is that what

22 you're asking me? Nobody.

23 Q. Okay. Let's take a look at Section (b).

24 A. (b).

25 Q. Yes, sir, of previously marked Exhibit 10, Section

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1 comes to mind about 10 or 12 years ago, but I don't

2 remember exactly what happened. So --

3 Q. Did it involve -- do you recall did it involve an

4 umpire?

5 A. Umpire, yes, it did.

6 Q. But you can't remember anything more about that as we

7 sit here?

8 A. I would have to come back and recollect.

9 Q. Do you recall if the -- if the umpire was stripped of

10 his ability to play --

11 A. Let me -- I'd have to check the whole incident.

12 Q. Okay.

13 MR. WEGNER: Jeff, would you just mark a

14 place in the deposition if he has an answer to that

15 after this?

16 MR. MISHKIN: We will take that request

17 under advisement.

18 BY MR. WEGNER:

19 Q. How about same exhibit, Commissioner, Section (d)(1).

20 (Witness peruses document.)

21 A. None.

22 Q. And take a look at (d)(2).

23 A. None.

24 Q. (d)(3)?

25 A. None.

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1 Q. And when you say "none," that means there has been no
2 occasions where Major League Baseball has stripped
3 eligibility under this rule?
4 A. Right, that's correct.
5 Q. Let's take a look at -- that's it on that exhibit,
6 Commissioner. Let's take a look at previously marked
7 Exhibit 11.
8 (Witness peruses document.)
9 A. Um-hum.
10 Q. Commissioner, according to this memorandum which is
11 Exhibit 11, section (d) of Rule 21 which you just
12 went over, it was amended in 2012; is that correct?
13 A. That's correct.
14 Q. And the name of the rule change from betting on ball
15 games to gambling; is that correct?
16 A. That's correct.
17 Q. Do you know why Major League Baseball renamed that
18 subsection?
19 A. You know, I can't remember. I know, I felt it was
20 appropriate, and John McHale who handles these
21 matters for me, and I discussed it, and we just moved
22 ahead. I don't remember the specific reason now.
23 Q. Commissioner, if you look at page 2 of that document
24 which is Bates number 2220 item No. 5.
25 A. Yes.

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1 in Las Vegas, I would have that player in my office
2 tomorrow, and I would be very concerned.
3 Q. Is it your read of this rule though, Commissioner,
4 that the rule permits Major League Baseball --
5 A. No, no, I believe it's not in the best interest of
6 the sport.
7 Q. So you would use best interest powers to prevent
8 that?
9 A. I would, yes, sir.
10 Q. But not necessarily this rule?
11 A. I -- it doesn't matter what I use, but it would cover
12 it. I could use the best interest clause, it would
13 be fine.
14 Q. What about other forms of gambling, Commissioner?
15 Does Major League Baseball make any distinction
16 between sports gambling and other types of gambling?
17 A. Like on what? I don't -- I'm not sure I --
18 Q. Casino gambling, for instance on roulette, cards?
19 A. Well, I don't know. We don't -- you know, the only
20 thing I can tell you is the gambling I'm most
21 concerned with is the gambling on our sport. If
22 somebody goes in or goes to Las Vegas with his wife
23 and plays blackjack or something, it's something
24 they're entitled to do if they want.
25 Q. Commissioner, under this same rule which was amended,

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1 Q. That prohibits gambling with bookmakers. And -- I'm
2 sorry, you have a chance to read it.
3 (Witness peruses document.)
4 A. Yes, sir.
5 Q. Why did Major League Baseball single out illegal
6 bookmakers?
7 A. I don't remember. But just again, and it says it in
8 here, too, part of our overall program to protect our
9 integrity. And we try to be as vigilant, as I said a
10 couple hours ago now, as we can be. And so I think
11 John McHale was just -- and our other people were
12 just bringing the thing up to date, that's all.
13 Q. What about legal bookmakers in Las Vegas or overseas?
14 A. Legal?
15 Q. Yes, sir.
16 A. In what form?
17 Q. Well, can Major League Baseball players legally
18 gamble in other sports in Las Vegas?
19 A. I would have to look at that under the best interest
20 clause.
21 Q. But under this rule, on the amendment, can Major
22 League Baseball players legally gamble on other
23 sports other than baseball in Las Vegas?
24 A. I would answer it the same way. If I was confronted
25 today with an ex-player is gambling on another sport

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1 has Major League Baseball suspended anyone pursuant
2 to subsection (d)(3) of that rule? Do you need to
3 look at it again, Commissioner?
4 A. Maybe I better, but I think the answer -- well, let
5 me look at it.
6 (Witness peruses document.)
7 A. No.
8 Q. Okay.
9 A. No, sir.
10 Q. Let's take a look at previously marked Major League
11 Baseball Exhibit 12 which is the Major League
12 Constitution, Commissioner.
13 A. Um-hum. Thank you, Jeff.
14 (Witness peruses document.)
15 A. Yes, sir.
16 Q. If you look specifically, Commissioner, at what's
17 Bates numbered page 2228, section (4)(d).
18 MR. MISHKIN: Page No. 12.
19 THE WITNESS: 12.
20 BY MR. WEGNER:
21 Q. Page No. 12.
22 A. Yes.
23 Q. Where (4)(d) says: The rights, privileges and other
24 property rights of a Major League Club may be
25 terminated involuntarily if the Club in question

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1 shall --

2 A. Yes, sir.

3 Q. -- offer, agree, conspire or attempt to lose any game

4 participated in by the Club; or fail to suspend

5 immediately any player, employee or officer who shall

6 be proved guilty of offering, agreeing, conspiring or

7 attempting to lose any such game or of being

8 interested in any pool or wager on any game in which

9 a Club participates.

10 Has Major League Baseball ever invoked this

11 section of the constitution to discipline --

12 A. Not to my knowledge. Certainly not in my term.

13 Q. Commissioner, does Major League Baseball allow clubs

14 to engage in scratch-it lotteries?

15 A. To engage in what?

16 Q. You know, there is lotteries, Commissioner, where you

17 scratch off, you buy a ticket and then you scratch

18 off part of it. If certain numbers are on the

19 ticket, you win?

20 A. I'm not sure.

21 Q. Commissioner, are you aware that the Red Sox have a

22 deal with Massachusetts, and the Nationals have a

23 deal with District of Columbia, Virginia lotteries

24 for scratch-its?

25 A. Yeah, I've seen their advertising, yes.

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1 ACKNOWLEDGMENT OF DEPONENT

2 I, ALLAN H. SELIG, do hereby certify

3 that I have read the foregoing transcript of my

4 testimony, and further certify that it is a true

5 and accurate record of my testimony (with the

6 exception of the corrections listed below):

7 Page Line Correction

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

20 _____

21 _____

22 ALLAN H. SELIG

23 SUBSCRIBED AND SWORN TO BEFORE ME

24 THIS _____ DAY OF _____, 20____.

25 (NOTARY PUBLIC) MY COMMISSION EXPIRES:

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1 Q. Was that conduct previously prohibited?

2 A. Well, of course, those things have changed a lot over

3 the years, so I'm not sure previously prohibited.

4 But we look at each one. And if we don't feel it

5 infringes upon the very thing we're trying to

6 protect, we let them do it. And no team can do it

7 without our approval, and we're very tough on

8 approval.

9 Q. So when the Red Sox deal with Massachusetts and the

10 Nationals deal with DC and Virginia lotteries, you're

11 okay with that?

12 A. We've approved them, yes, sir.

13 MR. WEGNER: No further questions.

14 THE WITNESS: Thank you.

15 MR. MISHKIN: Thank you. I have no

16 questions.

17 THE WITNESS: That's a good thing.

18 THE VIDEO OPERATOR: It's 2:13, we're

19 going off the record.

20 (At 2:13 p.m., the deposition concluded.)

21

22

23

24

25

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1 C E R T I F I C A T E

2 STATE OF WISCONSIN)

3) SS

4 MILWAUKEE COUNTY)

5 I, VICKY L. ST. GEORGE, Registered Merit

6 Reporter and Notary Public in and for the State of

7 Wisconsin, do hereby certify that the preceding deposition

8 was recorded by me and reduced to writing under my

9 personal direction.

10 I further certify that said deposition was

11 taken at MAJOR LEAGUE BASEBALL HEADQUARTERS, 777 East

12 Wisconsin Avenue, Suite 3060, Milwaukee, Wisconsin on

13 November 8, 2012, commencing at 11:30 a.m. and concluding

14 at 2:16 p.m.

15 I further certify that I am not a relative or

16 employee or attorney or counsel of any of the parties, or

17 a relative or employee of such attorney or counsel, or

18 financially interested directly or indirectly in this

19 action.

20 In witness whereof, I have hereunto set my hand

21 and affixed my seal of office at Milwaukee, Wisconsin,

22 this 12th day of November, 2012.

23

24 VICKY L. ST. GEORGE

25 Notary Public in and for the
State of Wisconsin
Commission Expires 3/17/2013

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